

TITLE 78 RECODIFICATION - TITLE 78B**CHAPTER 2**

2008 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

Title 78B, Chapter 2, General Provisions and Special Actions.

Highlighted Provisions:

This bill:

►

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**RENUMBERS AND AMENDS:**

78B-2-101, (Renumbered from 78-12-5.3, as last amended by Laws of Utah 1987,
Chapter 4)

78B-2-102, (Renumbered from 78-12-1, as last amended by Laws of Utah 1987,
Chapter 19)

78B-2-103, (Renumbered from 78-12-45, Utah Code Annotated 1953)

78B-2-104, (Renumbered from 78-12-35, as last amended by Laws of Utah 1987,
Chapter 19)

78B-2-105, (Renumbered from 78-12-37, Utah Code Annotated 1953)

78B-2-106, (Renumbered from 78-12-38, Utah Code Annotated 1953)

78B-2-107, (Renumbered from 78-12-39, Utah Code Annotated 1953)

78B-2-108, (Renumbered from 78-12-36, as last amended by Laws of Utah 1987,
Chapter 19)

78B-2-109, (Renumbered from 78-12-42, Utah Code Annotated 1953)

78B-2-110, (Renumbered from 78-12-43, Utah Code Annotated 1953)

- 32 **78B-2-111**, (Renumbered from 78-12-40, as last amended by Laws of Utah 2007,
33 Chapter 127)
34 **78B-2-112**, (Renumbered from 78-12-41, Utah Code Annotated 1953)
35 **78B-2-113**, (Renumbered from 78-12-44, Utah Code Annotated 1953)
36 **78B-2-114**, (Renumbered from 78-12-47, as enacted by Laws of Utah 1971, Chapter
37 212)
38 **78B-2-115**, (Renumbered from 78-12-33, as last amended by Laws of Utah 1988,
39 Chapter 208)
40 **78B-2-116**, (Renumbered from 78-12-33.5, as last amended by Laws of Utah 2005,
41 Chapter 71)
42 **78B-2-117**, (Renumbered from 78-12-48, as enacted by Laws of Utah 1988, Chapter
43 208)
44 **78B-2-201**, (Renumbered from 78-12-2, Utah Code Annotated 1953)
45 **78B-2-202**, (Renumbered from 78-12-3, Utah Code Annotated 1953)
46 **78B-2-203**, (Renumbered from 78-12-4, Utah Code Annotated 1953)
47 **78B-2-204**, (Renumbered from 78-12-5, Utah Code Annotated 1953)
48 **78B-2-205**, (Renumbered from 78-12-5.1, Utah Code Annotated 1953)
49 **78B-2-206**, (Renumbered from 78-12-5.2, Utah Code Annotated 1953)
50 **78B-2-207**, (Renumbered from 78-12-6, Utah Code Annotated 1953)
51 **78B-2-208**, (Renumbered from 78-12-7, Utah Code Annotated 1953)
52 **78B-2-209**, (Renumbered from 78-12-7.1, Utah Code Annotated 1953)
53 **78B-2-210**, (Renumbered from 78-12-8, Utah Code Annotated 1953)
54 **78B-2-211**, (Renumbered from 78-12-9, Utah Code Annotated 1953)
55 **78B-2-212**, (Renumbered from 78-12-10, Utah Code Annotated 1953)
56 **78B-2-213**, (Renumbered from 78-12-11, Utah Code Annotated 1953)
57 **78B-2-214**, (Renumbered from 78-12-12, Utah Code Annotated 1953)
58 **78B-2-215**, (Renumbered from 78-12-12.1, Utah Code Annotated 1953)
59 **78B-2-216**, (Renumbered from 78-12-13, Utah Code Annotated 1953)
60 **78B-2-217**, (Renumbered from 78-12-14, Utah Code Annotated 1953)
61 **78B-2-218**, (Renumbered from 78-12-15, Utah Code Annotated 1953)
62 **78B-2-219**, (Renumbered from 78-12-16, Utah Code Annotated 1953)

- 63 **78B-2-220**, (Renumbered from 78-12-17, Utah Code Annotated 1953)
- 64 **78B-2-221**, (Renumbered from 78-12-18, Utah Code Annotated 1953)
- 65 **78B-2-222**, (Renumbered from 78-12-19, Utah Code Annotated 1953)
- 66 **78B-2-223**, (Renumbered from 78-12-20, as last amended by Laws of Utah 1995,
- 67 Chapter 20)
- 68 **78B-2-224**, (Renumbered from 78-12-21, as last amended by Laws of Utah 1987,
- 69 Chapter 19)
- 70 **78B-2-225**, (Renumbered from 78-12-21.5, as last amended by Laws of Utah 2004,
- 71 Chapter 327)
- 72 **78B-2-226**, (Renumbered from 78-12-21.7, as enacted by Laws of Utah 1999, Chapter
- 73 123)
- 74 **78B-2-301**, (Renumbered from 78-12-31, as last amended by Laws of Utah 1996,
- 75 Chapter 79)
- 76 **78B-2-302**, (Renumbered from 78-12-29, as last amended by Laws of Utah 2006,
- 77 Chapter 274)
- 78 **78B-2-303**, (Renumbered from 78-12-30, as last amended by Laws of Utah 1993,
- 79 Chapter 227)
- 80 **78B-2-304**, (Renumbered from 78-12-28, as last amended by Laws of Utah 2000,
- 81 Chapter 157)
- 82 **78B-2-305**, (Renumbered from 78-12-26, as last amended by Laws of Utah 1996,
- 83 Chapter 79)
- 84 **78B-2-306**, (Renumbered from 78-12-27, Utah Code Annotated 1953)
- 85 **78B-2-307**, (Renumbered from 78-12-25, as last amended by Laws of Utah 1996,
- 86 Chapter 79)
- 87 **78B-2-308**, (Renumbered from 78-12-25.1, as enacted by Laws of Utah 1992, Chapter
- 88 185)
- 89 **78B-2-309**, (Renumbered from 78-12-23, as last amended by Laws of Utah 2007,
- 90 Chapter 136)
- 91 **78B-2-310**, (Renumbered from 78-12-24, Utah Code Annotated 1953)
- 92 **78B-2-311**, (Renumbered from 78-12-22, as last amended by Laws of Utah 2000,

Chapter 161)

78B-2-312, (Renumbered from 78-12-32, Utah Code Annotated 1953)

REPEALS:

78-12-46, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78B-2-101**, which is renumbered from Section 78-12-5.3 is renumbered and amended to read:

Part 1. General Provisions and Special Actions

~~[78-12-5.3].~~ **78B-2-101. Definitions of "tax title" and "action."**

~~[(1) The term "tax title" as used in Section 78-12-5.2 and Section 59-2-1364, and the related amended Sections 78-12-5, 78-12-7, and 78-12-12, means any title to real property, whether valid or not, which has been derived through or is dependent upon any sale, conveyance, or transfer of property in the course of a statutory proceeding for the liquidation of any tax levied against the property whereby the property is relieved from a tax lien.]~~

~~[(2)]~~ (1) The word "action" as used in ~~[these sections]~~ this chapter includes counterclaims and cross-complaints and all other civil actions ~~[wherein]~~ in which affirmative relief is sought.

(2) The term "tax title" as used in Section 78B-2-206 and Section 59-2-1364, and the related amended Sections 78B-2-204, 78B-2-208, and 78B-2-214, means any title to real property, whether valid or not, which has been derived through, or is dependent upon, any sale, conveyance, or transfer of property in the course of a statutory proceeding for the liquidation of any tax levied against the property whereby the property is relieved from a tax lien.

Section 2. Section **78B-2-102**, which is renumbered from Section 78-12-1 is renumbered and amended to read:

~~[78-12-1].~~ **78B-2-102. Time for commencement of actions generally.**

Civil actions may be commenced only within the periods prescribed in this chapter, after the cause of action has accrued, except in specific cases where a different limitation is prescribed by statute.

Section 3. Section **78B-2-103**, which is renumbered from Section 78-12-45 is renumbered and amended to read:

124 ~~[78-12-45].~~ **78B-2-103. Action barred in another state barred here.**

125 ~~[When a]~~ A cause of action ~~[has arisen]~~ which arises in another ~~[state or territory, or in~~
126 ~~a foreign country, and by the laws thereof an action thereon cannot there be maintained against~~
127 ~~a person]~~ jurisdiction, and which is not actionable in the other jurisdiction by reason of the
128 lapse of time, ~~[an action thereon shall]~~ may not be ~~[maintained against him]~~ pursued in this
129 state, ~~[except in favor]~~ unless the cause of ~~[one who has been]~~ action is held by a citizen of this
130 state and who has held the cause of action from the time it accrued.

131 Section 4. Section **78B-2-104**, which is renumbered from Section 78-12-35 is
132 renumbered and amended to read:

133 ~~[78-12-35].~~ **78B-2-104. Effect of absence from state.**

134 ~~[Where]~~ If a cause of action accrues against a person ~~[when he]~~ while the person is out
135 of the state, the action may be commenced within the term as limited by this chapter after his
136 return to the state. If after a cause of action accrues ~~[he]~~ the person departs from the state, the
137 time of his absence is not part of the time limited for the commencement of the action.

138 Section 5. Section **78B-2-105**, which is renumbered from Section 78-12-37 is
139 renumbered and amended to read:

140 ~~[78-12-37].~~ **78B-2-105. Effect of death.**

141 (1) If a person entitled to bring an action dies before the expiration of the ~~[time limited~~
142 ~~for the commencement thereof,]~~ statute of limitations and the cause of action survives, an
143 action may be ~~[commenced]~~ brought by his representatives after the expiration of ~~[that]~~ the
144 time and within one year from his death.

145 (2) If a person against whom an action may be brought dies before the expiration of the
146 ~~[time limited for the commencement thereof]~~ statute of limitations and the cause of action
147 survives, an action may be commenced against the representatives after the expiration of ~~[that]~~
148 the time and within one year after the issue of letters testamentary or of administration.

149 Section 6. Section **78B-2-106**, which is renumbered from Section 78-12-38 is
150 renumbered and amended to read:

151 ~~[78-12-38].~~ **78B-2-106. Effect of death of defendant outside this state.**

152 If a person against whom a cause of action exists dies ~~[without]~~ outside the state, the
153 time which elapses between his death and the expiration of one year after ~~[the issuing, within]~~

154 this state~~[, of]~~ issues letters testamentary or letters of administration is not a part of the time
155 limited for the commencement of an action ~~[therefor]~~ against his executor or administrator.

156 Section 7. Section **78B-2-107**, which is renumbered from Section 78-12-39 is
157 renumbered and amended to read:

158 ~~[78-12-39].~~ **78B-2-107. Effect of war.**

159 When a person is an alien subject or a citizen of a country at war with the United States,
160 the ~~[time of the continuance]~~ duration of the war ~~[is]~~ may not [a] be counted as part of the
161 ~~[period limited]~~ statute of limitations for the commencement of the action.

162 Section 8. Section **78B-2-108**, which is renumbered from Section 78-12-36 is
163 renumbered and amended to read:

164 ~~[78-12-36].~~ **78B-2-108. Effect of disability -- Minority or mental incompetence.**

165 ~~[If a]~~ A person [entitled to] may not bring an action~~[, other than for the recovery of real~~
166 ~~property, is at the time the cause of action accrued, either]~~ while under the age of majority or
167 mentally incompetent ~~[and]~~ without a legal guardian~~[, the time of the disability is not a part of~~
168 ~~the time limited for the commencement of the action]~~. During the time the person is underage
169 or incompetent, the statute of limitations for a cause of action other than for the recovery of real
170 property may not run.

171 Section 9. Section **78B-2-109**, which is renumbered from Section 78-12-42 is
172 renumbered and amended to read:

173 ~~[78-12-42].~~ **78B-2-109. Disability must exist when right of action accrues.**

174 ~~[No]~~ A person [can avail himself] may not take advantage of a disability, unless it
175 existed when ~~[his]~~ the person's right of action accrued.

176 Section 10. Section **78B-2-110**, which is renumbered from Section 78-12-43 is
177 renumbered and amended to read:

178 ~~[78-12-43].~~ **78B-2-110. All disabilities must be removed.**

179 When two or more disabilities coexist at the time the right of action accrues, the
180 limitation does not attach until all are removed.

181 Section 11. Section **78B-2-111**, which is renumbered from Section 78-12-40 is
182 renumbered and amended to read:

183 ~~[78-12-40].~~ **78B-2-111. Failure of action -- Right to commence new action.**

184 (1) If any action is timely filed and the judgment for the plaintiff is reversed, or if the

185 plaintiff fails in the action or upon a cause of action otherwise than upon the merits, and the
186 time limited either by law or contract for commencing the action has expired, the plaintiff, or if
187 he dies and the cause of action survives, his representatives, may commence a new action
188 within one year after the reversal or failure.

189 (2) On and after December 31, 2007, a new action may be commenced under this
190 section only once.

191 Section 12. Section **78B-2-112**, which is renumbered from Section 78-12-41 is
192 renumbered and amended to read:

193 ~~[78-12-41].~~ **78B-2-112. Effect of injunction or prohibition.**

194 ~~[When the commencement]~~ The duration of an ~~[action is stayed by]~~ injunction or ~~[a]~~
195 statutory prohibition ~~[the time of the continuance of the injunction or prohibition is not part of~~
196 ~~the time limited for the commencement of the action]~~ which delays the filing of an action may
197 not be counted as part of the statute of limitations.

198 Section 13. Section **78B-2-113**, which is renumbered from Section 78-12-44 is
199 renumbered and amended to read:

200 ~~[78-12-44].~~ **78B-2-113. Effect of payment, acknowledgment, or promise to pay.**

201 ~~[In any case founded on contract, when any part]~~

202 (1) An action based on a contract may not be brought without the defendant's
203 agreement in writing if the defendant has:

204 (a) paid any portion of the principal or interest ~~[shall have been paid, or an~~
205 ~~acknowledgment of an existing liability, debt or claim, or any promise to pay the same, shall~~
206 ~~have been made, an action may be brought within the period prescribed for the same after such~~
207 ~~payment, acknowledgment or promise, but such acknowledgment or promise must be in~~
208 ~~writing, signed by the party to be charged thereby. When]; or~~

209 (b) acknowledged the debt or claim in writing.

210 (2) If a right of action is barred by the provisions of any statute, it shall be unavailable
211 either as a cause of action or ground ~~[of]~~ for defense.

212 Section 14. Section **78B-2-114**, which is renumbered from Section 78-12-47 is
213 renumbered and amended to read:

214 ~~[78-12-47].~~ **78B-2-114. Separate trial of statute of limitations issue in**
215 **malpractice actions.**

~~[In any action against a physician and surgeon, dentist, osteopathic physician, chiropractor, physical therapist, registered nurse, clinical laboratory bioanalyst, clinical laboratory technologist, or a licensed hospital, person, firm or corporation as the employer of any such person]~~

(1) An issue raised by the defense regarding the statute of limitations in a case may be tried separately if the action is for professional negligence or for rendering professional services without consent, [if the responsive pleading of the defendant pleads that the action is barred by the statute of limitations, and if either party so moves the court, the] and against a:

(a) physician;

(b) surgeon;

(c) dentist;

(d) osteopathic physician;

(e) chiropractor;

(f) physical therapist;

(g) registered nurse;

(h) clinical laboratory bioanalyst;

(i) clinical laboratory technologist; or

(j) licensed hospital, person, firm or corporation as the employer of any of the persons in Subsection (1)(a) through (i).

(2) The issue raised [thereby] may be tried [separately and] before any other issues in the case are tried. If the issue raised by the defense of the statute of limitations is finally determined in favor of the plaintiff, the remaining issues shall then be tried.

~~[This act shall not be construed to be retroactive.]~~

Section 15. Section **78B-2-115**, which is renumbered from Section 78-12-33 is renumbered and amended to read:

[78-12-33]. 78B-2-115. Actions by state or other governmental entity.

~~[The]~~ Except for the provisions of Section 78B-2-116, the limitations in this [article] chapter apply to actions brought in the name of or for the benefit of the state or other governmental entity[;] the same as to actions by private parties[; except under Section 78-12-33.5].

Section 16. Section **78B-2-116**, which is renumbered from Section 78-12-33.5 is

247 renumbered and amended to read:

248 ~~[78-12-33.5].~~ **78B-2-116. Statute of limitations -- Asbestos damages --**

249 **Action by state or governmental entity.**

250 (1) (a) ~~[No]~~ A statute of limitations or repose may not bar an action by the state or
251 other governmental entity to recover damages from any manufacturer of any construction
252 materials containing asbestos, when the action arises out of the manufacturer's providing the
253 materials, directly or through other persons, to the state or other governmental entity or to a
254 contractor on behalf of the state or other governmental entity.

255 (b) Subsection (1)(a) provides for actions not yet barred, and also acts retroactively to
256 permit actions under this section that are otherwise barred.

257 (2) As used in this section, "asbestos" means asbestiform varieties of:

258 (a) chrysotile (serpentine);

259 (b) crocidolite (riebeckite);

260 (c) amosite (cummingtonite-grunerite);

261 (d) anthophyllite;

262 (e) tremolite; or

263 (f) actinolite.

264 Section 17. Section **78B-2-117**, which is renumbered from Section 78-12-48 is
265 renumbered and amended to read:

266 ~~[78-12-48].~~ **78B-2-117. Statute of limitations -- Asbestos damages.**

267 (1) (a) Notwithstanding any other provision of law, ~~[no]~~ a statute of limitation or
268 repose may not bar an action to recover damages from any manufacturer of any construction
269 materials containing asbestos and arising out of the manufacturer's providing of the materials,
270 directly or through other persons, for use in construction of any building within the state until
271 July 1, 1991, or until three years after the person or entity bringing the action discovers or with
272 reasonable diligence could have discovered the injury or damages, whichever is later.

273 (b) Subsection (a) provides a statute of limitation for the specified actions, and also
274 acts retroactively to permit, within time limits, the commencement of actions under this section
275 that are otherwise barred.

276 (2) As used in this section, "asbestos" means asbestiform varieties of:

277 (a) chrysotile (serpentine);

- 278 (b) crocidolite (riebeckite);
 279 (c) amosite (cummingtonite-grunerite);
 280 (d) anthophyllite;
 281 (e) tremolite; or
 282 (f) actinolite.

283 Section 18. Section **78B-2-201**, which is renumbered from Section 78-12-2 is
 284 renumbered and amended to read:

285 **Part 2. Real Property**

286 **[78-12-2]. 78B-2-201. Actions by the state.**

287 The state ~~[will]~~ may not [sue] bring an action against any person for or ~~[in]~~ with respect
 288 to any real property, ~~[or the]~~ its issues or profits ~~[thereof, by reason of the]~~, based upon the
 289 state's right or title [of the state] to the [same] real property, unless:

290 (1) ~~[such]~~ the right or title [shall have] to the property accrued within seven years
 291 before any action or other proceeding ~~[for the same shall be]~~ is commenced; or

292 (2) the state or those from whom it claims ~~[shall have]~~ received all of a portion of the
 293 rents and profits ~~[of such]~~ from the real property~~[, or some part thereof,]~~ within the
 294 immediately preceding seven years.

295 Section 19. Section **78B-2-202**, which is renumbered from Section 78-12-3 is
 296 renumbered and amended to read:

297 **[78-12-3]. 78B-2-202. Actions by patentees or grantees from state.**

298 ~~[No action can be brought for or in respect to real property by any]~~ A person [claiming
 299 under] receiving letters patent or a grant of real property from [this state, unless the same might
 300 have been commenced by the state as herein specified, in case such patent had not been issued
 301 or grant] the state may not bring an action based on the patent or grant unless the state would
 302 have been able to bring an action had the patent or grant not been made.

303 Section 20. Section **78B-2-203**, which is renumbered from Section 78-12-4 is
 304 renumbered and amended to read:

305 **[78-12-4]. 78B-2-203. When letters patent or grants declared void.**

306 When letters patent or grants of real property issued or made by the state are declared
 307 void by ~~[the determination]~~ a court of [a] competent ~~[court]~~ jurisdiction, an action for the
 308 recovery of the property ~~[so conveyed may]~~ shall be brought either by the state, or by any

subsequent patentee or grantee of the property, his heirs or assigns, within seven years after such determination~~[, but not after that period]~~.

Section 21. Section **78B-2-204**, which is renumbered from Section 78-12-5 is renumbered and amended to read:

~~[78-12-5].~~ 78B-2-204. Seizure or possession within seven years necessary.

~~[No]~~ An action for the recovery or possession of real property ~~[or for the possession thereof shall]~~ may not be maintained, unless it appears ~~[that]~~ the plaintiff, his ancestor, grantor or predecessor ~~[was seized]~~ owned or possessed ~~[of]~~ the property in question within seven years before the commencement of the action.

Section 22. Section **78B-2-205**, which is renumbered from Section 78-12-5.1 is renumbered and amended to read:

~~[78-12-5.1].~~ 78B-2-205. Seizure or possession within seven years -- Proviso -- Tax title.

~~[No]~~ (1) An action for the recovery or possession of real property ~~[or for the possession thereof shall]~~ may not be maintained, unless the plaintiff or his predecessor ~~[was seized]~~ owned or possessed ~~[of such]~~ the property within seven years ~~[from]~~ before the commencement of ~~[such]~~ the action~~[- provided, however, that with respect to actions]~~.

(2) Actions or defenses brought ~~[or interposed for the recovery or]~~ to recover, take possession of ~~[or to]~~, quiet title, or determine the ownership of real property against the holder of a tax title to ~~[such]~~ the property, ~~[no such action or defense shall]~~ may not be commenced ~~[or interposed]~~ more than four years after the date of the tax deed, conveyance, or transfer creating ~~[such]~~ the tax title unless the person commencing ~~[or interposing such]~~ the action or defense or his predecessor has actually occupied or been in possession of ~~[such]~~ the property within four years prior to the commencement ~~[or interposition]~~ of ~~[such]~~ the action or defense ~~[or within one year from the effective date of this amendment]~~.

Section 23. Section **78B-2-206**, which is renumbered from Section 78-12-5.2 is renumbered and amended to read:

~~[78-12-5.2].~~ 78B-2-206. Holder of tax title -- Limitations of action or defense -- Proviso.

~~[No]~~ An action or defense ~~[for the recovery or]~~ to recover, take possession of ~~[real property or to]~~, quiet title to, or determine the ownership ~~[thereof shall]~~ of real property may

~~not~~ be commenced ~~[or interposed]~~ against the holder of a tax title after the expiration of four years from the date of the sale, conveyance or transfer of ~~[such]~~ the tax title to any county, or directly to any other ~~[purchase thereof]~~ purchaser at any public or private tax sale ~~[and after the expiration of one year from the date of this act. Provided, however, that this section shall].~~
This section may not bar any action or defense by the owner of the legal title to ~~[such]~~ the property ~~[where]~~ which he or his predecessor ~~[has]~~ actually occupied or ~~[been in actual possession of such property]~~ possessed within four years from the commencement ~~[or interposition]~~ of ~~[such]~~ an action or defense. ~~[And provided further, that this]~~ This section ~~[shall]~~ may not bar any defense by a city or town~~;~~ to an action by the holder of a tax title, to the effect that ~~[such]~~ the city or town holds a lien against ~~[such]~~ the property which is equal or superior to the claim of the holder of ~~[such]~~ the tax title.

Section 24. Section **78B-2-207**, which is renumbered from Section 78-12-6 is renumbered and amended to read:

[78-12-6]. 78B-2-207. Actions or defenses founded upon title to real estate.

~~[No cause of]~~ An action, ~~[or]~~ defense, or counterclaim to an action~~[-founded]~~ based upon ~~[the]~~ the title to ~~[real]~~ the property or entitlement to the rents or profits ~~[out of the same, shall be effectual, unless it appears that the person prosecuting the action, or interposing the defense or counterclaim, or under whose title the action is prosecuted or defense or counterclaim is made, or]~~ from the property shall be brought:

(1) not later than seven years after the act on which it is based; and

(2) by the ancestor, predecessor or grantor of [such] the person [was seized] who owned or possessed [of] the property [in question within] for seven years before the [committing of the act in respect to which such action is prosecuted or defense or counterclaim made] act in Subsection (1) took place.

Section 25. Section **78B-2-208**, which is renumbered from Section 78-12-7 is renumbered and amended to read:

[78-12-7]. 78B-2-208. Adverse possession -- Possession presumed in owner.

(1) In ~~[every]~~ an action for the recovery of real property, ~~[or the possession thereof;]~~ it is presumed that:

(a) the person establishing [a] legal title to the property ~~[shall be presumed to have been possessed thereof within the time required by law; and the]~~ has been in possession of the

property; and

(b) any occupation of the property ~~[by any other person shall be deemed to have]~~ has been under and in subordination to the legal title~~[, unless it appears]~~.

(2) Subsection (1) may be rebutted by a showing that the property has been held and possessed adversely to ~~[such]~~ the legal title for at least seven years before ~~[the]~~ commencement of the action.

Section 26. Section **78B-2-209**, which is renumbered from Section 78-12-7.1 is renumbered and amended to read:

~~[78-12-7.1].~~ **78B-2-209. Adverse possession -- Presumption -- Proviso -- Tax title.**

(1) In ~~[every]~~ an action for the recovery or possession of real property ~~[or]~~, to quiet title to or determine the property's owner ~~[thereof]~~, the person establishing a legal title to ~~[such]~~ the property ~~[shall be]~~ is presumed to have been ~~[possessed thereof]~~ in possession of the property within the time required by law~~[, and the]~~. The occupation of ~~[such]~~ the property by any other person ~~[shall be deemed]~~ is considered to have been under and in subordination to the legal title, unless it appears that ~~[such]~~ the property has been held and possessed adversely to ~~[such]~~ the legal title for seven years before the commencement of ~~[such]~~ the action. ~~[Provided, however, that if]~~

(2) If in any action ~~[any]~~ a party ~~[shall establish]~~ establishes prima facie evidence ~~[that he is the owner]~~ of ownership of any real property under a tax title held by him and his predecessors for four years prior to the commencement of ~~[such action and one year after the effective date of this amendment he shall be]~~ the action, he is presumed to be the owner of ~~[such]~~ the property by adverse possession ~~[unless]~~. This presumption may be rebutted if it appears that the owner of the legal title or his predecessor has actually occupied or been in possession of ~~[such]~~ the property under ~~[such]~~ the title or that ~~[such]~~ the tax title owner and his predecessors have failed to pay all the taxes levied or assessed upon ~~[such]~~ the property within ~~[such]~~ the four-year period.

Section 27. Section **78B-2-210**, which is renumbered from Section 78-12-8 is renumbered and amended to read:

~~[78-12-8].~~ **78B-2-210. Adverse possession -- Under written instrument or judgment.**

~~[Whenever it appears that the occupant, or those under whom he claims, entered into]~~

(1) Property is considered to have been adversely held if a person in possession of the property [under claim of title, exclusive of other right, founding such claim upon a written instrument as being a conveyance of the property in question, or upon the], either personally or through another:

(a) possesses a written document purporting to convey title; or

(b) possesses a decree or judgment from a court of [a] competent [court, and that there has been a continued occupation and possession of the property included in such instrument, decree or judgment, or of some part of the property under such claim, for seven years, the property so included is deemed to have been held adversely, except that when the property so included] jurisdiction conveying title; and

(c) has occupied the property continuously for at least seven years.

(2) If the property consists of a tract divided into lots, the possession of one lot is not [deemed] considered a possession of any other lot [of] in the same tract.

Section 28. Section **78B-2-211**, which is renumbered from Section 78-12-9 is renumbered and amended to read:

[78-12-9]. 78B-2-211. What constitutes adverse possession under written instrument.

For the purpose of constituting an adverse possession by any person claiming a title [founded] based upon a written instrument or a judgment or decree, [and] the property is [deemed] considered to have been possessed and [occupied in the following cases] if:

(1) [Where] it has been usually cultivated or improved[:];

(2) [Where] it has been protected by a substantial inclosure[:];

(3) [Where,] although not inclosed, it has been used for the supply of fuel, [or of] fencing timber, for the purpose of husbandry, or for pasturage or for the ordinary use of the occupant[:]; or

(4) [Where] where a known farm or single lot has been partly improved, the portion of [such] the farm or lot [that] which may have been left not cleared or not inclosed according to the usual course and custom of the adjoining county is [deemed] considered to have been occupied for the same length of time as the part improved and cultivated.

Section 29. Section **78B-2-212**, which is renumbered from Section 78-12-10 is renumbered and amended to read:

433 ~~[78-12-10].~~ **78B-2-212.** Adverse possession -- Under claim not founded on
434 written instrument or judgment.

435 Where it appears that there has been an actual continued occupation of land under claim
436 of title, exclusive of any other right, but not founded upon a written instrument, judgment or
437 decree, the land ~~[so]~~ actually occupied[;] and no other, is ~~[deemed]~~ considered to have been
438 held adversely.

439 Section 30. Section **78B-2-213**, which is renumbered from Section 78-12-11 is
440 renumbered and amended to read:

441 ~~[78-12-11].~~ **78B-2-213.** What constitutes adverse possession not under written
442 instrument.

443 ~~[For the purpose of constituting an adverse possession]~~ Land is considered to be
444 possessed and occupied adversely by a person claiming title[;] not founded upon a written
445 instrument, judgment or decree~~[, land is deemed to have been possessed and occupied]~~ in the
446 following cases only, where:

- 447 (1) ~~[Where]~~ it has been protected by a substantial ~~[inclosure;]~~ enclosure;
448 (2) ~~[Where]~~ it has been usually cultivated or improved[;]; and
449 (3) ~~[Where]~~ labor or money amounting to the sum of \$5 per acre has been expended
450 upon dams, canals, embankments, aqueducts or otherwise for the purpose of irrigating ~~[such~~
451 ~~lands amounting to the sum of \$5 per acre]~~ the land.

452 Section 31. Section **78B-2-214**, which is renumbered from Section 78-12-12 is
453 renumbered and amended to read:

454 ~~[78-12-12].~~ **78B-2-214.** Adverse possession -- Continuous -- Seven years -- Taxes
455 paid.

456 ~~[In no case shall adverse possession be considered established under the provisions of~~
457 ~~any section of this code, unless it shall be]~~ Adverse possession may not be established unless it
458 is shown that the land has been occupied and claimed continuously for ~~[the period of]~~ seven
459 years ~~[continuously]~~, and that the party, his predecessors and grantors have paid all taxes which
460 have been levied and assessed upon ~~[such]~~ the land according to law.

461 Section 32. Section **78B-2-215**, which is renumbered from Section 78-12-12.1 is
462 renumbered and amended to read:

~~[78-12-12.1].~~ **78B-2-215.** Adverse possession -- Payment of taxes -- Proviso
 -- Tax title.

~~[In no case shall adverse possession be established under the provisions of this code, unless it shall be shown that the land has been occupied and claimed for the period of seven years continuously, and that the party, his predecessors and grantors have paid all the taxes which have been levied and assessed upon such land according to law. Provided, however, that payment by the holder of a tax title to real property or his predecessors;] Payment of all the taxes levied and assessed upon [such real property after the delinquent tax sale or transfer under which he claims] the real property for a period of not less than four years [and for not less than one year after the effective date of this amendment, shall be] by the holder of a tax title to the real property or his predecessors is sufficient to satisfy the requirements of this [section in regard to] chapter regarding the payment of taxes necessary to establish adverse possession.~~

Section 33. Section **78B-2-216**, which is renumbered from Section 78-12-13 is renumbered and amended to read:

~~[78-12-13].~~ **78B-2-216.** Adverse possession of public streets or ways.

~~[No] A person [shall be allowed to acquire any right or title in or to any lands held by any] may not acquire by adverse possession any right in or title to any property held by a town, city or county, [or the corporate authorities thereof,] and designated for public use as streets, lanes, avenues, alleys, parks or public squares, or [for] any other public purpose, [by adverse possession thereof for any length of time whatsoever, unless it shall affirmatively appear that such town or city or county or the corporate authorities thereof have] unless the town, city, or county has sold, or otherwise disposed of, and conveyed [such real estate] the property to a purchaser for [a] valuable consideration, and [that for] more than seven years subsequent to [such] that conveyance the purchaser, his grantees or successors in interest, have been in the exclusive, continuous and adverse possession of [such] the real estate[; in which case an adverse title may be acquired].~~

Section 34. Section **78B-2-217**, which is renumbered from Section 78-12-14 is renumbered and amended to read:

~~[78-12-14].~~ **78B-2-217.** Adverse possession -- Possession of tenant deemed possession of landlord.

When ~~[the relation of]~~ a landlord and tenant ~~[has existed]~~ relationship exists between ~~[any]~~ persons, the possession of the tenant is ~~[deemed]~~ considered the possession of the landlord until the expiration of seven years ~~[from]~~ after the termination of the tenancy, or, ~~[where]~~ if there has been no written lease, until ~~[the expiration of]~~ seven years from the time of the last payment of rent~~[, notwithstanding that such tenant may have acquired another title, or may have claimed to hold adversely to his landlord; but such presumption cannot be made after the periods herein limited].~~

Section 35. Section **78B-2-218**, which is renumbered from Section 78-12-15 is renumbered and amended to read:

~~[78-12-15].~~ **78B-2-218.** Adverse possession -- Possession not affected by descent cast.

The right of a person to the possession of real property is not impaired or affected by a descent cast in consequence of the death of a person in possession of ~~[such]~~ the property.

Section 36. Section **78B-2-219**, which is renumbered from Section 78-12-16 is renumbered and amended to read:

~~[78-12-16].~~ **78B-2-219.** Adverse possession -- Action to redeem mortgage of real property.

~~[No]~~ An action to redeem a mortgage of real property, with or without an account of rents and profits, may not be brought by the mortgagor, or those claiming under him, against the mortgagee in possession, or those claiming under him, unless ~~[he or they have continuously maintained]~~ an adverse possession of the mortgaged premises for seven years after breach of some condition of the mortgage has been continuously maintained by the mortgagor or those claiming under him.

Section 37. Section **78B-2-220**, which is renumbered from Section 78-12-17 is renumbered and amended to read:

~~[78-12-17].~~ **78B-2-220.** Redemption when more than one mortgagor.

If there is more than one ~~[such]~~ mortgagor, or more than one person claiming under a mortgagor, some of whom are not entitled to maintain ~~[such]~~ an action~~;~~ under the provisions of this article, any one of them who is entitled to maintain ~~[such]~~ an action may redeem ~~[therein]~~ a divided or undivided part of the mortgaged premises as his interest may appear, and have an accounting for a part of the rents and profits~~;~~ proportionate to his interest in the

mortgaged premises, on payment of a part of the mortgage money, bearing the same proportion to the whole of ~~[such]~~ the money as the value of his divided or undivided interest in the premises bears to the whole of ~~[such]~~ the premises.

Section 38. Section **78B-2-221**, which is renumbered from Section 78-12-18 is renumbered and amended to read:

~~[78-12-18].~~ **78B-2-221. Actions to recover estate sold by guardian.**

~~[No]~~ An action for the recovery of ~~[any]~~ an estate sold by a guardian ~~[can]~~ shall be ~~[maintained]~~ brought by the ward, or ~~[by]~~ any person claiming under ~~[him, unless it is commenced]~~ the ward, within three years ~~[next]~~ after the termination of the guardianship.

Section 39. Section **78B-2-222**, which is renumbered from Section 78-12-19 is renumbered and amended to read:

~~[78-12-19].~~ **78B-2-222. Actions to recover estate sold by executor or administrator.**

~~[No]~~ An action for the recovery of ~~[any]~~ an estate sold by an executor or administrator in the course of ~~[any]~~ a probate proceeding ~~[can]~~ shall be maintained by ~~[any]~~ an heir or other person claiming under the decedent~~[-, unless it is commenced]~~ within three years ~~[next]~~ after ~~[such]~~ the sale. An action to set aside the sale ~~[may]~~ shall be instituted and maintained ~~[at any time]~~ within three years from the discovery of the fraud or other lawful grounds upon which the action is based.

Section 40. Section **78B-2-223**, which is renumbered from Section 78-12-20 is renumbered and amended to read:

~~[78-12-20].~~ **78B-2-223. Minority or disability prevents running of period.**

Sections ~~[78-12-18 and 78-12-19]~~ 78B-2-221 and 78B-2-222 shall not apply to minors or others under any legal disability to sue at the time when the right of action first accrues. ~~[All such persons may commence an action within the time prescribed in]~~ Section ~~[78-12-21]~~ 78B-2-224 shall apply in those circumstances.

Section 41. Section **78B-2-224**, which is renumbered from Section 78-12-21 is renumbered and amended to read:

~~[78-12-21].~~ **78B-2-224. Disabilities -- Time tolled.**

~~[If a person entitled to commence an action for the recovery of real property or for the recovery of the possession of it, or to make any entry or defense, founded on the title to real~~

property or to rents or services out of the property, is at the time the title first descends or accrues, either under the age of majority or]

A statute of limitations may not be applied to a person's ability to bring an action during a period in which the person is:

(1) a minor; or

(2) mentally incompetent[, the time during which the disability continues is not a part of the time in this article limited for the commencement of the actions or the making of the entry or defense].

Section 42. Section **78B-2-225**, which is renumbered from Section 78-12-21.5 is renumbered and amended to read:

~~[78-12-21.5].~~ **78B-2-225. Actions related to improvements in real property.**

(1) As used in this section:

(a) "Abandonment" means that there has been no design or construction activity on the improvement for a continuous period of one year.

(b) "Action" means any claim for judicial, arbitral, or administrative relief for acts, errors, omissions, or breach of duty arising out of or related to the design, construction, or installation of an improvement, whether based in tort, contract, warranty, strict liability, indemnity, contribution, or other source of law.

(c) "Completion of improvement" means the date of substantial completion of an improvement to real property as established by the earliest of:

(i) a Certificate of Substantial Completion;

(ii) a Certificate of Occupancy issued by a governing agency; or

(iii) the date of first use or possession of the improvement.

(d) "Improvement" means any building, structure, infrastructure, road, utility, or other similar man-made change, addition, modification, or alteration to real property.

(e) "Person" means an individual, corporation, limited liability company, partnership, joint venture, association, proprietorship, or any other legal or governmental entity.

(f) "Provider" means any person contributing to, providing, or performing studies, plans, specifications, drawings, designs, value engineering, cost or quantity estimates, surveys, staking, construction, and the review, observation, administration, management, supervision, inspections, and tests of construction for or in relation to an improvement.

(2) The Legislature finds that:

(a) exposing a provider to suits and liability for acts, errors, omissions, or breach of duty after the possibility of injury or damage has become highly remote and unexpectedly creates costs and hardships to the provider and the citizens of the state;

(b) these costs and hardships include liability insurance costs, records storage costs, undue and unlimited liability risks during the life of both a provider and an improvement, and difficulties in defending against claims many years after completion of an improvement;

(c) these costs and hardships constitute clear social and economic evils;

(d) the possibility of injury and damage becomes highly remote and unexpected seven years following completion or abandonment; and

(e) except as provided in Subsection (7), it is in the best interests of the citizens of the state to impose the periods of limitation and repose provided in this chapter upon all causes of action by or against a provider arising out of or related to the design, construction, or installation of an improvement.

(3) (a) An action by or against a provider based in contract or warranty shall be commenced within six years of the date of completion of the improvement or abandonment of construction. Where an express contract or warranty establishes a different period of limitations, the action shall be initiated within that limitations period.

(b) All other actions by or against a provider shall be commenced within two years from the earlier of the date of discovery of a cause of action or the date upon which a cause of action should have been discovered through reasonable diligence. If the cause of action is discovered or discoverable before completion of the improvement or abandonment of construction, the two-year period begins to run upon completion or abandonment.

(4) Notwithstanding Subsection (3)(b), an action may not be commenced against a provider more than nine years after completion of the improvement or abandonment of construction. In the event the cause of action is discovered or discoverable in the eighth or ninth year of the nine-year period, the injured person shall have two additional years from that date to commence an action.

(5) Subsection (4) does not apply to an action against a provider:

(a) who has fraudulently concealed his act, error, omission, or breach of duty, or the injury, damage, or other loss caused by his act, error, omission, or breach of duty; or

(b) for a willful or intentional act, error, omission, or breach of duty.

(6) If a person otherwise entitled to bring an action did not commence the action within the periods prescribed by Subsections (3) and (4) solely because that person was a minor or mentally incompetent and without a legal guardian, that person shall have two years from the date the disability is removed to commence the action.

(7) This section shall not apply to an action for the death of or bodily injury to an individual while engaged in the design, installation, or construction of an improvement.

(8) The time limitation imposed by this section ~~shall~~ does not apply to any action against any person in actual possession or control of the improvement as owner, tenant, or otherwise, at the time any defective or unsafe condition of the improvement proximately causes the injury for which the action is brought.

(9) This section does not extend the period of limitation or repose otherwise prescribed by law or a valid and enforceable contract.

(10) This section does not create or modify any claim or cause of action.

(11) This section applies to all causes of action that accrue after May 3, 2003, notwithstanding that the improvement was completed or abandoned before May 3, 2004.

Section 43. Section **78B-2-226**, which is renumbered from Section 78-12-21.7 is renumbered and amended to read:

~~[78-12-21.7].~~ **78B-2-226. Boundary surveys.**

An action against a surveyor for acts, errors, or omissions in the performance of a boundary survey filed pursuant to Section 17-23-17 shall be ~~commenced~~ brought within five years of the date of the filing.

Section 44. Section **78B-2-301**, which is renumbered from Section 78-12-31 is renumbered and amended to read:

Part 3. Other than Real Property

~~[78-12-31].~~ **78B-2-301. Within six months.**

An action may be brought within six months against ~~[an officer,]~~ a tax collector or ~~[an officer de facto]~~ the tax collector's designee:

(1) to recover any goods, wares, merchandise ~~[or],~~ other property seized ~~[by any such officer]~~ in his official capacity ~~[as tax collector, or to recover]~~ or the price or value of any ~~[goods, wares, merchandise or other personal property so seized, or]~~ or it;

(2) for damages for the seizure, detention, sale of, or injury to, any goods, wares, merchandise or other personal property seized~~[, or]~~;

(3) for damages done to any person or property in making ~~[any such]~~ a seizure;

~~[(2)] (4) for money paid [to any such officer under protest, or seized by such officer in his official capacity, as a collector of taxes,]~~ or seized under protest and which, it is claimed, ought to be refunded.

Section 45. Section **78B-2-302**, which is renumbered from Section 78-12-29 is renumbered and amended to read:

~~[78-12-29].~~ **78B-2-302.** Within one year.

An action may be brought within one year:

(1) for liability created by the statutes of a foreign state;

(2) upon a statute for a penalty or forfeiture where the action is given to an individual, or to an individual and the state, except when the statute imposing it prescribes a different limitation;

(3) upon a statute, or upon an undertaking in a criminal action, for a forfeiture or penalty to the state;

(4) for libel, slander, false imprisonment, or seduction;

(5) against a sheriff or other officer for the escape of a prisoner arrested or imprisoned upon either civil or criminal process;

(6) against a municipal corporation for damages or injuries to property caused by a mob or riot;

(7) on a claim for relief or a cause of action under the following sections of Title 25, Chapter 6, Uniform Fraudulent Transfer Act:

(a) Subsection 25-6-5(1)(a), which in specific situations limits the time for action to four years, under Section 25-6-10; or

(b) Subsection 25-6-6(2);

(8) except as otherwise expressly provided by statute, against a county legislative body or a county executive to challenge a decision of the county legislative body or county executive, respectively; or

(9) on a claim for relief or a cause of action under Title 63, Chapter 90b, Utah Religious Land Use Act.

Section 46. Section **78B-2-303**, which is renumbered from Section 78-12-30 is renumbered and amended to read:

[78-12-30]. 78B-2-303. One year -- Actions on claims against county, city or town.

Actions on claims against a county, city or incorporated town, which have been rejected by the county executive, city commissioners, city council, or board of trustees~~[, as the case may be, must]~~ shall be [commenced] brought within one year after the first rejection ~~[thereof by such board of county or city commissioners, city council, or board of trustees].~~

Section 47. Section **78B-2-304**, which is renumbered from Section 78-12-28 is renumbered and amended to read:

[78-12-28]. 78B-2-304. Within two years.

An action may be brought within two years:

(1) against a marshal, sheriff, constable, or other officer for liability incurred ~~[by the doing of an act in his official capacity, and by virtue of his office,]~~ during the performance of the officer's official duties or by the omission of an official duty, including the nonpayment of money collected upon an execution;

(2) for recovery of damages for a death caused by the wrongful act or neglect of another;

(3) in causes of action against the state and its employees, for injury to the personal rights of another if not otherwise provided by state or federal law; or

(4) in causes of action against a political subdivision of the state and its employees, for injury to the personal rights of another arising after May 1, 2000, if not otherwise provided by state or federal law.

Section 48. Section **78B-2-305**, which is renumbered from Section 78-12-26 is renumbered and amended to read:

[78-12-26]. 78B-2-305. Within three years.

An action may be brought within three years:

(1) for waste, ~~[or]~~ trespass upon, or injury to real property; except that when waste or trespass is committed by means of underground works upon any mining claim, the cause of action does not accrue until the discovery by the aggrieved party of the facts constituting ~~[such]~~ the waste or trespass;

(2) for taking, detaining, or injuring personal property, including actions for specific recovery ~~[thereof]~~; except that in ~~[all]~~ cases where the subject of the action is a domestic animal usually included in the term "livestock," which at the time of its loss has a recorded mark or brand, if the animal strayed or was stolen from the true owner without the owner's fault, the cause does not accrue until the owner has actual knowledge of ~~[such]~~ facts ~~[as]~~ that would put a reasonable ~~[man]~~ person upon inquiry as to the possession of the animal by the defendant;

(3) for relief on the ground of fraud or mistake; except that the cause of action ~~[in such case]~~ does not accrue until the discovery by the aggrieved party of the facts constituting the fraud or mistake;

(4) for a liability created by the statutes of this state, other than for a penalty or forfeiture under the laws of this state, except where in special cases a different limitation is prescribed by the statutes of this state;

(5) to enforce liability imposed by Section 78-17-3, except that the cause of action does not accrue until the aggrieved party knows or reasonably should know of the harm suffered.

Section 49. Section **78B-2-306**, which is renumbered from Section 78-12-27 is renumbered and amended to read:

~~[78-12-27].~~ **78B-2-306. Action against corporate stockholders or directors.**

Actions against directors or stockholders of a corporation to recover a penalty or forfeiture imposed, or to enforce a liability created~~[, by law must]~~ shall be brought within three years after the discovery~~[;]~~ by the aggrieved party~~[;]~~ of the facts upon which the penalty or forfeiture attached, or the liability accrued~~[, and in case of actions]~~. Actions against stockholders of a bank pursuant to levy of assessment to collect their statutory liability~~[, such actions]~~ must be brought within three years after the levy of the assessment.

Section 50. Section **78B-2-307**, which is renumbered from Section 78-12-25 is renumbered and amended to read:

~~[78-12-25].~~ **78B-2-307. Within four years.**

An action may be brought within four years:

(1) after the last charge is made or the last payment is received:

~~[(+)]~~ (a) upon a contract, obligation, or liability not founded upon an instrument in writing; ~~[also]~~

(b) on an open store account for any goods, wares, [~~and~~] or merchandise[, ~~and for any article charged on a store account; also~~]; or

(c) on an open account for work, labor or services rendered, or materials furnished[; ~~provided, that action in all of the foregoing cases may be commenced at any time within four years after the last charge is made or the last payment is received~~];

(2) for a claim for relief or a cause of action under the following sections of Title 25, Chapter 6, Uniform Fraudulent Transfer Act:

(a) Subsection 25-6-5(1)(a), which in specific situations limits the time for action to one year, under Section 25-6-10;

(b) Subsection 25-6-5(1)(b); or

(c) Subsection 25-6-6(1); and

(3) for relief not otherwise provided for by law.

Section 51. Section **78B-2-308**, which is renumbered from Section 78-12-25.1 is renumbered and amended to read:

~~[78-12-25.1].~~ **78B-2-308. Civil actions for sexual abuse of a child.**

(1) As used in this section:

(a) "Child" means a person under 18 years of age.

(b) "Discovery" means when a person knows or reasonably should know that the injury or illness was caused by the intentional or negligent sexual abuse.

(c) "Injury or illness" means either a physical injury or illness or a psychological injury or illness. A psychological injury or illness need not be accompanied by physical injury or illness.

(d) "Molestation" means touching the anus, buttocks, or genitalia of any child, the breast of a female child younger than 14 years of age, or otherwise taking indecent liberties with a child, or causing a child to take indecent liberties with the perpetrator or another, with the intent to arouse or gratify the sexual desire of any person.

(e) "Negligently" means a failure to act to prevent the child sexual abuse from further occurring or to report the child sexual abuse to law enforcement when the adult who could act knows or reasonably should know of the child sexual abuse and is the victim's parent, stepparent, adoptive parent, foster parent, legal guardian, ancestor, descendant, brother, sister, uncle, aunt, first cousin, nephew, niece, grandparent, stepgrandparent, or any person cohabiting

773 in the child's home.

774 (f) "Person" means an individual who was intentionally or negligently sexually abused.

775 It does not include individuals whose claims are derived through another individual who was
776 sexually abused.

777 (g) "Sexual abuse" means acts or attempted acts of sexual intercourse, sodomy, or
778 molestation directed towards a child.

779 (2) A person shall file a civil action for intentional or negligent sexual abuse suffered
780 as a child:

781 (a) within four years after the person attains the age of 18 years; or

782 (b) if a person discovers sexual abuse only after attaining the age of 18 years, that
783 person may bring a civil action for such sexual abuse within four years after discovery of the
784 sexual abuse, whichever period expires later.

785 (3) The victim need not establish which act in a series of continuing sexual abuse
786 incidents caused the injury complained of, but may compute the date of discovery from the date
787 of discovery of the last act by the same perpetrator which is part of a common scheme or plan
788 of sexual abuse.

789 (4) The knowledge of a custodial parent or guardian ~~[shall]~~ may not be imputed to a
790 person under the age of 18 years.

791 (5) A civil action may be brought only against a living person who intentionally
792 perpetrated the sexual abuse or negligently permitted the sexual abuse to occur.

793 Section 52. Section **78B-2-309**, which is renumbered from Section 78-12-23 is
794 renumbered and amended to read:

795 **~~[78-12-23]. 78B-2-309. Within six years -- Mesne profits of real property --~~**
796 **Instrument in writing.**

797 An action may be brought within six years:

798 (1) for the mesne profits of real property;

799 (2) upon any contract, obligation, or liability founded upon an instrument in writing,
800 except those mentioned in Section ~~[78-12-22]~~ 78B-2-311; and

801 (3) to recover fire suppression costs or other damages caused by wildland fire.

802 Section 53. Section **78B-2-310**, which is renumbered from Section 78-12-24 is
803 renumbered and amended to read:

804 ~~[78-12-24].~~ **78B-2-310. Actions against public officers -- Within six years.**

805 An action by the state ~~[or]~~, any agency or public corporation ~~[thereof]~~ against any
806 public officer for malfeasance, misfeasance, or nonfeasance in office or against any surety upon
807 his official bond may be brought within six years after ~~[such]~~ the officer ceases to hold his
808 office~~[-but not thereafter]~~.

809 Section 54. Section **78B-2-311**, which is renumbered from Section 78-12-22 is
810 renumbered and amended to read:

811 ~~[78-12-22].~~ **78B-2-311. Eight years.**

812 An action may be brought within eight years upon a judgment or decree of any court of
813 the United States, or of any state or territory within the United States.

814 Section 55. Section **78B-2-312**, which is renumbered from Section 78-12-32 is
815 renumbered and amended to read:

816 ~~[78-12-32].~~ **78B-2-312. Action on mutual account -- When deemed accrued.**

817 In an action brought to recover a balance due upon a mutual, open and current account,
818 where there have been reciprocal demands between the parties, the cause of action shall be
819 ~~[deemed]~~ considered to have accrued from the time of the last item proved in the account on
820 either side.

821 Section 56. **Repealer.**

822 This bill repeals:

823 Section **78-12-46**, "Action" includes special proceeding.